



# **Community Outreach**

## **Affordable Housing Ordinance (AHO) Updates**

December 16 & 17, 2021

### **City of Milpitas**

455 E. Calaveras Blvd., Milpitas, CA 95035  
[www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) • (408)-586-3000

# Agenda

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- Background and City Council Direction
- Proposed Changes to the Affordable Housing Ordinance (AHO)
  - Policy Discussion: Rental Inclusionary Alternatives
- Next Steps
- Share Comments and Contact Us



# **Background and City Council Direction**

- The City Council adopted AHO (Ordinance No. 297) on June 19, 2018
- Applies to new residential & mixed-use developments with 10+ housing units
- Requires that 15% of new units are affordable for 45 years (ownership) or 55 years (rental)
- AHO allows several alternatives to building housing units “on-site”
- City Council directed staff to explore changes to the in-lieu fee provisions in the AHO to encourage on-site affordable housing production

# **Overview of Proposed Changes to AHO**

- City staff is proposing changes to the AHO:
  - To encourage more on-site housing construction
  - To help the City meet its Regional Housing Needs Allocation (RHNA) goals
  - To add clarity and consistency throughout the AHO
- The following slides summarize proposed changes to the AHO.
- City Council will consider proposed changes on January 18, 2022.

# **Proposed Changes: Sec. 2 – Definitions**

- Adds or clarifies definitions
  - Accessory dwelling unit
  - Affordable housing cost
  - Affordable unit
  - Low income household
  - Mixed use development
  - Moderate income household
  - On-site development
  - Very low income household

# **Proposed Change: Sec. 3.00 – Fractional Units**

- If the 15 percent calculation results in a fractional unit that is less than 0.5, the developer may pay an in-lieu fee for that fractional unit.
- If the 15 percent calculation results in a fractional unit that is equal to or greater than 0.5, the requirement is rounded up to the next whole number, resulting in one more unit.
- Current ordinance provides that in-lieu fees are paid for all fractional units (no rounding).
- Clarifies that ADUs are not included in the calculation of the total number of units subject to the on-site 15% inclusionary requirement. (Section 2 definition also clarifies that ADUs cannot be used to meet inclusionary requirement.)

## **Proposed Changes: Sec. 3.02 – 3.04**

- Adds or clarifies language
  - **3.02 Conditions of Approval:** List of documents needed for staff to review.
  - **3.03 Concurrent construction of affordable units:** Concurrent or advance construction of affordable units for phased development.
  - **3.04 Design and distribution of affordable units:** Consistency of affordable units with market rate units.

## **Proposed Change: Sec. 4A – Ownership Projects**

- Encourages provision of on-site ownership units by providing more stringent standards for ownership projects to limit use of alternative means of compliance.
- Developer must construct on-site affordable units unless the City Council makes findings allowing developer to use one of the listed alternatives that will either:
  - Further the City's low and moderate income housing goals *and* result in a greater amount of affordable housing or deeper affordability by meeting at least two of four listed criteria in the ordinance; or
  - Will provide other community benefits that exceed benefit of constructing on-site affordable housing units.



## **Proposed Change: Sec. 4B – Rental Projects**

- The City may allow an exception to the requirement to construct on-site affordable units for a residential rental project if requested by the applicant, provided that applicant shall be required to contribute to the City's affordable housing needs through one of the alternative means of compliance (i.e., pay in-lieu fees, construct units off-site, or make a land dedication).

# **Policy Discussion: In-lieu fees for Rental**

- City staff is evaluating a different set of options to encourage on-site construction in rental projects while providing flexibility:
  - (A) Developer may construct 50% of required units on-site, and pay 50% of requirement in-lieu fees without City Council findings;
  - (B) Developer may pay 100% in in-lieu fees if the City Council makes the same findings required for ownership alternatives (i.e., fees will result in a greater amount of affordable housing and/or deeper affordability or will provide other community benefits that are greater than constructing on-site units);
  - (C) Developer may meet the requirement through land dedication or off-site construction, provided that the standards in the AHO are met.

## **Proposed Changes: Sec. 4.00 – 4.02**

- Adds or clarifies language
  - **4.00 Payment of in-lieu fees:** Clarifies that calculation of in-lieu fees must be based on the total gross square footage of all dwelling units developed as part of the project, including any ADUs.
  - **4.01 Off-site projects:** Be within City boundary. Flexibility to build off-site affordable units with a different tenure from market rate units.
  - **4.02 Land dedication:** Dedicated land within City boundary, which must be zoned and usable for required amount of housing.

## **Proposed Changes: Sec. 4.03, 4.04, and 7**

- **Credit Transfers:** Deletes “credit transfers” as an alternative means of compliance. This alternative has never been used and would be difficult for staff to implement and monitor.
- Deletes Sections 4.03 and 7.
- Deletes Section 4.04; no longer needed as it is addressed in other sections.

## **Proposed Changes: Sec. 6.00 – 6.03**

- **6.00 and 6.02:** Changes affordability covenant for ownership units from 45 to 55 years to be consistent with rental unit affordability term and to gain a longer-term affordability.
- **6.03 Selection Criteria:** Broadens the criteria for preferences under the AHO to add displaced former residents and households with children enrolled in MUSD that have inadequate housing as defined under the McKinney-Vento Act.

# **Next Steps**

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- ✓ **December 8**      Release Draft for Public Comment
- ✓ **December 16**      Community Development Roundtable Meeting
- December 17**      Community Meeting
  
- January 18, 2022**      City Council Meeting (discussion and first reading)
- February 1, 2022**      City Council Meeting (second reading and adoption)

# **Share Comments and Contact Us**

**Please share comments by Monday, January 10, 2022**

Webpage: [www.ci.milpitas.ca.gov/AHO](http://www.ci.milpitas.ca.gov/AHO)

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A photograph of the City of Milpitas building at dusk. The building is a modern, curved structure with a light-colored facade and large glass windows. The interior lights are on, and the building is reflected in the glass. In the foreground, there is a fountain with several water jets. The sky is dark, and some trees are visible on the left side.

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